

**MAIL TO:**

STATE OF UTAH  
 DIVISION OF PURCHASING  
 3150 STATE OFFICE BUILDING, CAPITOL HILL  
 P.O. BOX 141061  
 SALT LAKE CITY, UTAH 84114-1061  
 TELEPHONE (801) 538-3026  
<http://purchasing.utah.gov>

**Invitation to Bid**Solicitation Number: **EN4007**Due Date: **07/29/03 at 2:00 PM**

Date Sent: July 9, 2003

Goods and services to be

**FISH FEED CONTRACT FOR STATE FISH HATCHERIES****Please complete**

Company Name		Federal Tax Identification Number	
Ordering Address	City	State	Zip Code
Remittance Address (if different from ordering address)	City	State	Zip Code
Type <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Proprietorship <input type="checkbox"/> Government	Company Contact Person		
Telephone Number (include area code)	Fax Number (include area code)		
Company's Internet Web Address	Email Address		
Discount Terms (for bid purposes, bid discounts less than 30 days will not be considered)	Days Required for Delivery After Receipt of Order (see attached for any required minimums)		
<p>The following documents are included in this solicitation: Solicitation forms, instructions and general provisions, and specifications. <u>Please review all documents carefully before completing.</u></p> <p>The undersigned certifies that the goods or services offered are produced, mined, grown, manufactured, or performed in Utah. Yes_____ No_____. If no, enter where produced, etc._____</p>			
Offeror's Authorized Representative's Signature		Date	
Type or Print Name		Position or Title	

**STATE OF UTAH  
DIVISION OF PURCHASING**

**Invitation to Bid**

**Solicitation Number: EN4007**

**Due Date: 7/29/03 @2:00PM**

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**Vendor Name:**

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AGENCY CONTRACT FOR FISH FEED FOR STATE FISH HATCHERIES FOR THE PERIOD OF 8/31/03 THROUGH 9/01/04 WITH UP TO FOUR (4) SIX-MONTH EXTENSIONS, PER THE ATTACHED SPECIFICATIONS AND BID SHEET.

**YOU MUST BID ON OUR FORMS FOR BID TO BE CONSIDERED.**

FOR ADDITIONAL INFORMATION OR CLARIFICATION CONTACT TIM MILES AT 801-538-4807.  
REFERENCE RX# 560 45000000004.

**Ship To: AS DESIGNATED BY TIM MILES.**

## INVITATION TO BID - INSTRUCTION AND GENERAL PROVISIONS

**1. BID PREPARATION:** (a) All prices and notations must be in ink or typewritten. (b) Price each item separately. Unit price shall be shown and a total price shall be entered for each item bid. Errors may be crossed out and corrections printed in ink or typewritten adjacent and must be initialed in ink by person signing quotation. (c) Unit price will govern, if there is an error in the extension. (d) Delivery time is critical and must be adhered to as specified. (e) Wherever in this document an item is defined by using a trade name of a manufacturer and/or model number, it is intended that the words, "or equivalent" apply. "Or equivalent" means any other brand that is equal in use, quality, economy and performance to the brand listed as determined by the Division of Purchasing & General Services (DIVISION). If the vendor lists a trade name and/or catalog number in the bid, the DIVISION will assume the item meets the specifications unless the bid clearly states it is an alternate, and describes specifically how it differs from the item specified. All bids must include complete manufacturer's descriptive literature if quoting an equivalent product. All products are to be of new, unused condition, unless otherwise requested in this solicitation. (f) By signing the bid the vendor certifies that all of the information provided is accurate, that they are willing and able to furnish the item(s) specified, and that prices quoted are correct. (g) This bid may not be withdrawn for a period of 60 days from bid due date.

**2. SUBMITTING THE BID:** (a) The bid must be signed in ink, sealed in a properly-addressed envelope, and either mailed or delivered to the DIVISION OF PURCHASING, 3150 State Office Building, Capitol Hill, Salt Lake City, UT 84114-1061 by the "Due Date and Time." **The "Bid Number" and "Due Date" must appear on the outside of the envelope.** (b) Bids, modifications, or corrections received after the closing time on the "Due Date" will be considered late and handled in accordance with the Utah Procurement Rules, section R33-3-109. (c) **Your bid will be considered only if it is submitted on the forms provided by the state. Facsimile transmission of bids to DIVISION will not be considered.** (d) All prices quoted must be both F.O.B. Origin per paragraph 1.(c) and F.O.B. Destination. Additional charges including but not limited to delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, costs of bonds, or for any other purpose must be included in the bid for consideration and approval by the DIVISION. Upon award of the contract, the shipping terms will be F.O.B. Destination, Freight Prepaid with freight charges to be added to the invoice unless otherwise specified by the DIVISION.

**3. SOLICITATION AMENDMENTS:** All changes to this solicitation will be made through written addendum only. Bidders are cautioned not to consider verbal modifications.

**4. PROPRIETARY INFORMATION:** Suppliers are required to mark any specific information contained in their bid which is not to be disclosed to the public or used for purposes other than the evaluation of the bid. Each request for nondisclosure must be accompanied by a specific justification explaining why the information is to be protected. Pricing and service elements of any bid will not to be considered proprietary. Bids submitted may be reviewed and evaluated by any persons at the discretion of the state.

**5. SAMPLES:** Samples of item(s) specified in this bid, when required by DIVISION, must be furnished free of charge to DIVISION. Any item not destroyed by tests may, upon request made at the time the sample is furnished, be returned at the bidder's expense.

**6. WARRANTY:** The contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the State of Utah under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah applies to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed

upon elsewhere in this contract. In general, the contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that the State has relied on the contractor's skill or judgement to consider when it advised the State about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the State has not been warned. Remedies available to the State include the following: The contractor will repair or replace (at no charge to the State) the product whose nonconformance is discovered and made known to the contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State of Utah may otherwise have under this contract.

**7. DIVISION APPROVAL:** Purchase orders placed, or contracts written, with the state of Utah, as a result of this bid, will not to be legally binding without the written approval of the director of the DIVISION.

**8. AWARD OF CONTRACT:** (a) the contract will be awarded with reasonable promptness, by written notice, to the lowest responsible bidder that meets the specifications. Consideration will be given to the quality of the product(s) to be supplied, conformity to the specifications, the purpose for which required, delivery time required, discount terms and other criteria set forth in this invitation to bid. (b) The bids are opened publicly in the presence of one or more witnesses. the name of each bidder, and the amount of the bid is recorded. Each bid, and the record, is open to public inspection. (c) The DIVISION may accept any item or group of items, or overall low bid. the DIVISION has the right to cancel this invitation to bid at any time prior to the award of contract. (d) The DIVISION can reject any and all bids. And it can waive any informality, or technicality in any bid received, if the DIVISION believes it would serve the best interest of the State. (e) Before, or after, the award of a contract the DIVISION has the right to inspect the bidder's premises and all business records to determine the holder's ability to meet contract requirements. (f) DIVISION does not guarantee to make any purchase under awarded contract(s). Estimated quantities are for bidding purposes only, and not to be interpreted as a guarantee to purchase any amount. (g) Utah has a reciprocal preference law which will be applied against bidders bidding products or services produced in states which discriminate against Utah products. For details see Section 63-56 20.5 -20.6, Utah Code Annotated.

**9. ANTI-DISCRIMINATION ACT:** The bidder agrees to abide by the provisions of the Utah Anti-discrimination Act, Title 34 Chapter 35, U.C.A. 1953, as amended, and Title VI and Title VII of the Civil Rights Act of 1964 (42 USC 2000e), which prohibit discrimination against any employee or applicant for employment, or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age, and Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disabilities. Also bidder agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the workplace. Vendor must include this provision in every subcontract or purchase order relating to purchases by the State of Utah to insure that the subcontractors and vendors are bound by this provision.

**10. DEBARMENT:** The CONTRACTOR certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the CONTRACTOR cannot certify this statement, attach a written explanation for review by the STATE.

**11. GOVERNING LAWS AND REGULATIONS:** All state purchases are subject to the Utah Procurement Code, Title 63 Chapter 56 U.C.A. 1953, as amended, and the Procurement Regulations as adopted by the Utah State Procurement Policy Board. These are available on the Internet at [www.purchasing.utah.gov](http://www.purchasing.utah.gov)

(Revision 14 Mar 2003 - IFB Instructions)

Attachment B  
**SCOPE OF WORK**

Contract is to provide the following:

Provide approximately 900,000 pounds of fish feed to eleven state of Utah fish hatcheries, annually. Cost of the fish feed shall be based on the price per pound of individual feed type and sizes as stated in the contractors invitation to bid AEstimated Fish Feed Quantities@worksheet. Feed sizes, quality, quantities, deliveries, and other details shall comply with specification as presented in the ASpecification for Dry Fish Food for State Hatcheries@document attached to the Invitation to Bid. The ASpecification for Dry Fish Food for State Hatcheries@and AEstimated Fish Feed Quantities@worksheet is included as Attachment C.

The acceptable feed will be the manufacturer's best quality brand food, which consists of a proven complete formulated diet, meeting all the nutritional requirements for all varieties of trout without any supplementary feeding of any kind. Feed is to be supplied in fifty-pound packs using multi-walled bags, or as a bulk delivery as requested by the hatchery. Each bag is to show the milling date and size of feed. Wet or broken bags or bags showing evidence of wetness, damage to contents, loss of contents or feed milled more than 30 days prior to date of delivery will not be accepted by the Division. The manufacturer shall deliver feed to each hatchery monthly in the quantities requested. Feed will be ordered monthly for the upcoming month's needs. Deliveries shall start fourteen (14) days after notification of the month's requirement. Bag deliveries shall consist of the entire 1-month order. Bulk deliveries shall be as indicated on the schedule with the feed request.

**Delivery vehicles will not enter facilities when there is the possibility of mud having been picked up from other hatcheries within area where whirling disease or aquatic nuisance species are present.**

UTAH STATE DEPARTMENT ON NATURAL RESOURCES  
DIVISION OF WILDLIFE RESOURCES

SPECIFICATIONS FOR DRY FISH FOOD FOR STATE HATCHERIES

1. Feed Specifications:

The only trout feed which will be acceptable will be the manufacturer's best quality brand food. A dry trout or salmon feed to consist of a proven complete formulated diet meeting all nutritional requirements for all varieties of trout without any supplementary feeding of any kind. Trout feed shall have a minimum protein level of 38% with at least 17% as fish protein. Salmon feed shall have a minimum protein level of 48% with at least 22% as fish protein. Total protein must be at least 90% digestible.

Feed size shall be as follows:

<u>Size</u>	<u>Diameter</u>	<u>Length</u>
3/16"	3/16"	3/16" Long cut
1/4"	1/4"	1/4"
5/32"	5/32"	5/32"
1/8"	1/8"	1/8"
3/32"	3/32"	3/32"
		<u>U.S. Sieve Size</u>
#4	must pass through	No. 6
	must pass over	No. 10
#3	must pass through	No. 10
	must pass over	No. 14
#2	must pass through	No. 14
	must pass over	No. 20
#1	must pass through	No. 20
	must pass over	No. 34
Starter	must pass through	No. 34
	must pass over	No. 46
2.5mm Extruded	2.5mm	2.5mm long cut
3.5mm Extruded	3.5mm	3.5mm long cut
4.5mm Extruded	4.5mm	4.5mm long cut
5.5mm Extruded	5.5mm	5.5mm long cut
9.5mm Extruded	9.5mm	9.5mm long cut

At least 85% of feed must meet sieve size or pellet size. Fines shall be less than 3% for bulk and 2% for bags by weight

Any deviations from these sizes shall be noted in bids.

Feed is to be supplied in fifty-pound packs of multi-walled bags, and each bag is to show the milling date and size of feed. If code is used, successful bidders will be required to immediately furnish the Division a code translation. Wet or broken bags or bags showing evidence of wetness, damage to contents, loss of contents or feed milled more than 30 days prior to date of delivery will not be accepted by the Division.

The successful bidder may be required to include Romet - 30 or terramycin or other approved drugs

as required by the Department. Contractors price for such additions shall be added as a separate charge on the invoice.

The successful bidder may be required to provide feed orders with double vitamin packages and/or Roxanthin Red 10 (10% of conthoranthin) added. Contractors' price for such additions shall be added as a separate charge on the invoice.

2. Quantities:

The quantities of feed shown, Attachment 1, are the estimates for a twelve (12) month period. The Division reserves the right to order more or less feed if conditions require an increase or a reduction of fish produced. Monthly feed requirements will vary considerably as fish stocks at the hatchery dictate. Feed shall be furnished monthly by the manufacturer in the quantities requested. Notification for one (1) month requirements will be given at 1-month intervals by the Division.

3. Delivery:

Bids shall be F.O.B. delivered in bag or bulk to specified hatcheries. Suppliers must provide pneumatic equipment or augers to transfer the bulk feed into the Divisions bins. Price for bulk should be quoted delivered to Midway Hatchery, Midway, Utah; Springville Hatchery, Springville, Utah; Glenwood Hatchery, Glenwood Hatchery, Glenwood, Utah; and Egan Hatchery, Bicknell, Utah. Prices for bags should be quoted delivered to Mammoth Creek Hatchery near Hatch, Utah; Glenwood Hatchery near Glenwood, Utah; Loa Hatchery near Loa, Utah; Egan Hatchery near Bicknell, Utah; Fountain Green Hatchery, Fountain Green, Utah; Springville Hatchery, Springville, Utah; Midway Hatchery, Midway, Utah; Kamas Hatchery near Kamas, Utah; Whiterocks Hatchery near Whiterocks, Utah; Mantua Hatchery, Mantua, Utah; Wahweap Hatchery, near Big Water, Utah; and the Fisheries Experiment Station near Logan, Utah.

Deliveries shall start fourteen (14) days after notification of 1-month requirement. Bag deliveries shall consist of the entire 1-month order. Bulk deliveries shall be as indicated on the schedule with the feed request. **Delivery vehicles will not enter facilities when there is the possibility of mud having been picked up from other hatcheries within an area where whirling disease or aquatic nuisance species are present.**

4. Price Adjustments:

The Division will review fully documented request for price adjustments, either up or down, after this contract has been in effect for 120 days. Allowances for price adjustments will be based on the following information and formula:

1. Percent of ingredient in diet formulation
2. Ingredient baseline cost at time of bid per ton
3. Ingredient cost in present feed order per ton
4. Difference between baseline costs and present costs per ton
5. Adjusted cost per ton equals (baseline ingredient costs minus present ingredient costs) times percent of ingredient in formulation

The adjusted cost for each ingredient is added for total adjustment.

		<b>Example</b>		<b>Present Increased</b>	
	<u>Ingredient</u>	<u>% in Diet</u>	<u>Baseline Cost</u>	<u>Cost</u>	<u>Cost</u>
1.	Soy Bean Meal	25.00%	230.00/ton	294.00/ton	\$64 X 25% = \$16.00
2.	Blood Meal	10.00%	420.00/ton	380.00/ton	\$40 X 10% = \$ -4.00

Total of items 1, 2	\$16.00
	<u>-4.00</u>
	\$12.00

The requested price increase must be based upon a cost increase that was clearly unpredictable at the time of bid and can be shown to directly affect the price of the item concerned. The Purchasing Office will determine, through competitive market review, trade publications, independent price indices, and/or other means, whether the requested price increase, or an alternative option, is in the best interest of the Department. **The vendor shall likewise offer any published price reductions to the Department concurrent with its announcement to other customers.**

5. Cancellation:

After the contract has been in effect for sixty (60) days or more, either party to the contract may cancel the remaining portion of the contract by providing a written thirty (30) day notice of cancellation to the other party. The contract shall be subject to cancellation at any time upon unsatisfactory performance of the product solely determined by the Utah State Division of Wildlife Resources. The State reserves the right to reject the bid of any company if, from previous experience and/or reliable data, the feed sold by such company has not proved satisfactory. The State further reserves the right to inspect plant equipment, facilities, products and raw materials.

6. Award:

The entire contract for trout feed will be awarded to the low bidder, providing the bidder satisfies all specifications. The Division's experience of past feed conversion rates may be used to evaluate bids in addition to other standard criteria. Such contracts will be effective for a twelve (12) month period from the time of first delivery, under this agreement, by the supplier. The contract may also be extended, upon agreement of both parties, for successive six-month periods, not to exceed four (4) extensions.



## ATTACHMENT C

**ESTIMATED FISH FEED QUANTITIES**  
**FOR PERIOD AUGUST 31, 2003 THROUGH SEPTEMBER 1, 2004**

FEED SIZE	ESTIMATED LBS. FOR PERIOD		BID COST PER POUND		TOTAL COST
<b>TROUT FEED (SACKS)</b>					
#1 GRANULES	10,500	X		=	
#2 GRANULES	19,520	X		=	
#3 GRANULES	19,650	X		=	
#4 GRANULES	22,150	X		=	
3/32" PELLETS	18,850	X		=	
1/8" PELLETS	37,800	X		=	
5/32" PELLETS	128,600	X		=	
<b>SALMON FEED (SACKS)</b>					
STARTER & CHINOOK MASH	3,350	X		=	
#1 GRANULES	2,850	X		=	
#2 GRANULES	6,450	X		=	
#3 GRANULES	13,350	X		=	
#4 GRANULES	12,050	X		=	
3/32" PELLETS	0	X		=	
<b>EXTRUDED TROUT FLOATING PELLETS (SACKS)</b>					
3.5 MM PELLETS	87,120	X		=	
4.5 MM PELLETS	72,720	X		=	
5.5 MM PELLETS	8,960	X		=	
7.5 MM PELLETS	720	X		=	
9.5 MM PELLETS	760	X		=	
<b>EXTRUDED TROUT FLOATING PELLETS (BULK)</b>					
3.5 MM PELLETS	10,000	X		=	
4.5 MM PELLETS	158,300	X		=	
<b>EXTRUDED BROOD FLOATING PELLETS</b>					
7.5 MM PELLETS (SACKS)	15,600	X		=	
9.5 MM PELLETS (SACKS)	4,360	X		=	
9.5 MM PELLETS (BULK)	35,000	X		=	
<b>EXTRUDED SALMON FLOATING PELLETS (SACKS)</b>					
1.5 MM PELLETS	33,600	X		=	
2.5 MM PELLETS	86,570	X		=	
3.5 MM PELLETS	71,660	X		=	
4.5 MM PELLETS	16,380	X		=	
5.5 MM PELLETS	1,400	X		=	
<hr/>					
TOTAL FEED FC	898,270		\$		

## ATTACHMENT A: STANDARD TERMS AND CONDITIONS

1. **AUTHORITY:** Provisions of this contract are pursuant to the authority set forth in 63-56, Utah Code Annotated, 1953, as amended, Utah State Procurement Rules (Utah Administrative Code Section R33), and related statutes which permit the STATE to purchase certain specified services, and other approved purchases for the STATE.
2. **CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE:** The provisions of this contract shall be governed by the laws of the State of Utah. The parties will submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of this Contract or the breach thereof. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
3. **LAWS AND REGULATIONS:** Any and all supplies, services and equipment furnished will comply fully with all applicable Federal and State laws and regulations.
4. **RECORDS ADMINISTRATION:** The CONTRACTOR shall maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the CONTRACTOR for costs authorized by this contract. These records shall be retained by the CONTRACTOR for at least four years after the contract terminates, or until all audits initiated within the four years, have been completed, whichever is later. The CONTRACTOR agrees to allow STATE and Federal auditors, and STATE Agency Staff, access to all the records to this contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.
5. **CONFLICT OF INTEREST:** CONTRACTOR represents that none of its officers or employees are officers or employees of the State of Utah, unless disclosure has been made in accordance with 67-16-8, Utah Code Annotated, 1953, as amended.
6. **CONTRACTOR, AN INDEPENDENT CONTRACTOR:** The CONTRACTOR shall be an independent contractor, and as such, shall have no authorization, express or implied, to bind the STATE to any agreements, settlements, liability, or understanding whatsoever, and agrees not to perform any acts as agent for the STATE, except as herein expressly set forth. Compensation stated herein shall be the total amount payable to the CONTRACTOR by the STATE. The CONTRACTOR shall be responsible for the payment of all income tax and social security amounts due as a result of payments received from the STATE for these contract services. Persons employed by the STATE and acting under the direction of the STATE shall not be deemed to be employees or agents of the CONTRACTOR.
7. **INDEMNITY CLAUSE:** The CONTRACTOR agrees to indemnify, save harmless, and release the STATE OF UTAH, and all its officers, agents, volunteers, and employees from and against any and all loss, damages, injury, liability, suits, and proceedings arising out of the performance of this contract which are caused in whole or in part by the negligence of the CONTRACTOR'S officers, agents, volunteers, or employees, but not for claims arising from the State's sole negligence.
8. **EQUAL OPPORTUNITY CLAUSE:** The CONTRACTOR agrees to abide by the provisions of Title VI and VII of the Civil Rights Act of 1964 (42USC 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Also, the CONTRACTOR agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the work place.
9. **SEPARABILITY CLAUSE:** A declaration by any court, or any other binding legal source, that any provision of this contract is illegal and void shall not affect the legality and enforceability of any other provision of this contract, unless the provisions are mutually dependent.
10. **RENEGOTIATION OR MODIFICATIONS:** This contract may be amended, modified, or supplemented only by written amendment to the contract, executed by the parties hereto, and attached to the original signed copy of the contract.
11. **DEBARMENT:** The CONTRACTOR certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract), by any governmental department or agency. If the CONTRACTOR cannot certify this statement, attach a written explanation for review by the STATE.
12. **TERMINATION:** Unless otherwise stated in the Special Terms and Conditions, this contract may be terminated, with cause by either party, in advance of the specified termination date, upon written notice being given by the other party. The party in violation will be given ten (10) working days after notification to correct and cease the violations, after which the contract may be terminated for cause. This contract may be terminated without cause, in advance of the specified expiration date, by either party, upon 90 days prior written notice being given the other party. On termination of this contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services rendered to date of termination.
13. **SALES TAX EXEMPTION:** The State of Utah's sales and use tax exemption number is E33399. The tangible personal property or services being purchased are being paid from State funds and used in the exercise of that entity's essential functions. If the items being purchased are construction materials, they will be converted into real property by employees of this government entity, unless otherwise stated in the contract.
14. **WARRANTY:** The contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the State of Utah under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah apply to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that the State has relied on the contractor's skill or judgement to consider when it advised the State about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the State has not been warned. Remedies available to the State include the following: The contractor will repair or replace (at no charge to the State) the product whose nonconformance is discovered and made known to the contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State of Utah may otherwise have under this contract.
15. **PUBLIC INFORMATION:** Contractor agrees that the contract will be a public document, as to distribution of copies, and Contractor gives the STATE express permission to make copies of the contract and/or of the response to the solicitation in accordance with the State of Utah Government Records Access and Management Act. The permission to make copies as noted will take precedence over any statements of confidentiality, proprietary information, copyright information, or similar notation.

(Revision date: Apr 24, 2002)